

REMARKS

This paper is filed in response to the Office Action dated January 13, 2009. Claims 1-8, 11-14, 32 and 34 are pending, and claims 35 to 38 are added. Claims 11-14, 32 and 34 stand rejected. Applicant respectfully requests reconsideration and reexamination in view of the amendments and arguments herein

Claims 1-8, 11-14, 32 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al. (US 5,841,355) in view of Datillo (US 4,978,592). Claims 11, 13 and 14 were also rejected under 35 U.S.C. 103(a) as unpatentable over Bae et al. in view of Datillo and further in view of Parise (US 6,653,022) and Gutlich et al. (US 4,283,467). Finally, claim 12 was rejected under 35 U.S.C. §103(a) as unpatentable over Bae et al. in view of Datillo, Parise, Gutlich et al. and further in view of Saaski et al. (US 6,265,100). Applicant respectfully traverses the rejections.

Independent Claims 1, 32 and 34

Claim 1 was amended to require “said battery being autonomous such that said water conduit, valve system, electrolyte level sensor, and electronic controller are integral with said battery so as to form a self contained battery”. Thus claim 1 as now written provides for a single and complete battery unit. Bae et al. teaches away from such a concept by providing a more elaborate and cumbersome water storage tank, which may fill battery unit with water using a water conduit and an electronic controller that are entirely external to the battery itself. To this end, Bae et al. does not relate to a battery unit. Rather, it relates to an external water system for filling a battery.

Turning first to the water conduit, Bae et al. teaches a distilled water injector (figure 3) extending from a water storage tank (exemplified by either 1 or 17), which provides water to a storage cell or battery. Bae et al., however, does not teach or suggest that this water injector is actually attached to the battery. In fact, figure 4 illustrates that the water injector is above the storage cell 21, with no attachment means in place. The specification of Bae et al. does not teach or suggest otherwise. Bae et al. is not a battery but a separate system for watering batteries.

Bae et al. also does not teach that the electronic controller is attached to the battery. Specifically, Bae et al. provides that the water injector contains sensors 20 at the outlet portion 15 with the control wire extending from the sensors to the wire-connector 11, where it is coupled to the terminal box 6 of the water storage tank 1. (Col. 3, lns 1-11). As a matter of logic, the fact that the control wire travels through the water injector and into the water tank infers that the signals derived from sensors 20 are provided to an electronic controller within the water tank. There is nothing within Bae et al. to teach or suggest that the signals from sensors 20 or the electronic controller itself may be provided within the battery.

At best, Bae et al. relates to a separate water tank system for providing water to a battery wherein all of the elements of the system are entirely separate from the actual battery unit. By teaching that all of its components are outside of the battery, Bae et al. inherently teaches away from any proposition of creating a single, complete battery unit, as provided by the present application. “When the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.” *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740 (2007) (citing *United States v. Adams*, 383 U.S. 39, 50 (1966)). Accordingly, by teaching away from combining a water conduit and

electronic controller with a battery, Bae et al. does not and cannot render obvious these aspects of the present claims.

The auxiliary reference, Datillo, does not assist with these claim elements. Datillo relates to an apparatus and method for indicating low electrolyte levels of a wet battery. Nothing within Datillo relates to a water conduit or a controller that is attached to the battery. Accordingly, Datillo, alone or in combination with Bae et al, also does not provide for all of the claim limitations of claim 1, 32 and 34.

To support a *prima facie* case of obviousness, all claim elements of a claim must be provided by the prior art—see generally MPEP 2143.04—“with some articulated reason [and] some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007). As provided above, the combination of Bae et al and Datillo does not teach either a water conduit or electronic controller that is attached within a battery. In fact, Bae et al. actually teaches away from any proposition of a single battery unit. These two references, therefore, fail to account for all elements of the present claims and fail to support a *prima facie* case of obviousness. Accordingly, under the decision of *KSR*, there cannot be a rational reason or underpinning for combining these references to account for every element of claims 1, 32, and 34. For at least these reasons, Applicant respectfully requests that the rejection of claims 1, 32, and 34 be withdrawn.

Claims 32 and 34, with similar limitations, are believed patentable for reasons similar to that of claim 1.

Claims 2-8 and 11-14

Claims 2-8 and 11-14, depending from claim 1, include each of the claim elements contained therein. Claim 11 was amended to require that the charging sensor and air pump are

integral with the self contained battery. As indicated above, claim 1 provides for a water conduit and electronic controller attached to a battery, thus forming a single battery unit. Neither Bae et al. nor Datillo teach or suggest either of these elements. Other cited references, namely Parise, Gutlich et al., and Saaski et al., also do not teach or suggest these elements of claim 1. Parise and Saaski et al. independently relate to different aspects of charging a battery. Gutlich et al. relates to an apparatus and method of mixing electrolytes within a battery. Accordingly, none of the five references cited by the Examiner teach all of the limitations of claims 2-8 and 11-14, as required to support a *prima facie* case of obviousness. For at least these reasons, Applicant respectfully requests that the rejection of claims 2-8 and 11-14 be withdrawn.

Claims 6-8

Applicant also traverses the rejection of claims 6-8. Applicant's amended claim 6 is dependent from claim 1 and recites a biasing member spaced between a coupling and a fitting with a movable latch attached thereto. This biasing member is specifically recited as biasing the fitting for ejecting said fitting away from and out of engagement with said coupling when the latch releases the fitting. Claim 7 recites that the latch is electrically actuatable between positions, and claim 8 recites that a sensor generates signals of engagement and disengagement of fitting with coupling in communication with the controller. Again, each of these elements is consistent with the single battery unit inventive concept of the present invention.

Not all of these claim limitations are taught or suggested by Bae et al. At best, Bae et al. is directed toward control wire connector 11 and injection hose quick coupling 12 components of the injector that are receivable by the terminal box 6 of the water supply 1. Applicant asserts that these element are missing entirely from the teachings of Bae et al.

Claims 35 to 35

New claims 35 to 38 add a further requirement that the cell valves (for controlling the water flow from the conduit to each of the cells) are mechanical, and claims 36 and 38 require that this mechanical valve be a float valve, in addition to the limitations of the claims from which they depend. This is contrary to Bae which teaches an electric solenoid valve. See Column 3, line 65. New claims 35 to 38 are thus believed patentable. Support for the new claims is found in the last sentence of paragraph 45 of the published application.

Conclusion

Applicant has shown, in the arguments presented above, that pending claims 1-8, 11-14, 32 and 34 to 38 of the present application are patentable. Should Examiner have any questions or comments with respect to this response, it is respectfully requested that the Examiner telephone the undersigned at (215) 299- 2416 to discuss.

The Commissioner is hereby authorized to charge to deposit account 50-1943 any additional fees as required for the Request For Continued Examination, any extension fees, and any other fees.

Respectfully submitted,

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